HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition (c) No. 2571 of 2007

Petitioner	Ganesh Das, S/o Puran Das, Aged about 30 years, Caste Panka, R/o Village Kediyarwar, Tehsil Bilaigarh, District Raipur (CG)

Versus

Respondents	1	Board of Revenue, through its President, Chhattisgarh, Bilaspur (Circuit Court, Raipur).
	2	Upper Collector, Baloda Bazar, District Raipur (CG).
	3	Sub Divisional Officer (Revenue), Bilaigarh, District Raipur (CG).
	4	Naib Tahsildar, Bhatgaon, Bilaigarh, District Raipur (CG).
	5	Lakhan Das, S/o Sukrut Das, Aged about 30 years, Caste Panka, R/o Village Kediyarwar, Tehsil Bilaigarh, District Raipur (CG).

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Justice Shri Satish K. Agnihotri

Present: Mr. B.D. Guru, Advocate for the petitioner.
Ms. Deepali Pandey, Panel lawyer for the respondents No. 1 to 4/State.

ORDER

(Passed on this 26th day of April, 2007)

1. By this petition, the petitioner impugns the order dated 30th November, 2006 (Annexure P/1), passed by the Board of Revenue, Chhattisgarh, Bilaspur (Circuit Court, Raipur) in Revision Case No. RN/14/R/A-56/248/2006.

2. The indisputable facts in nutshell, are that the name of the respondent No. 5 was recommended by the resolution dated 12.11.04, passed by the Gram Panchayat, Baloudi and the resolution dated 24.11.2004, passed by the Gram Panchayat, Tihlipali for appointment on the post

of Village Kotwar. Subsequently, by the resolution dated 26.11.2004, the name of the petitioner was also recommended for appointment on the post of Village Kotwar on the basis of the resolution passed by the Gram Panchayat, Baloudi.

3. The competent officer i.e. Naib-Tahsildar, after having examining comparative merit, appointed the petitioner as permanent Kotwar of village Kediyarwar by the order dated 18.2.2005 (Annexure P/2).

4. Being aggrieved, the respondent No. 5 filed an appeal, being Appeal No. 43/A/56/2004-2005, before the Sub-Divisional Officer (Revenue), Bilaigarh, District Raipur, wherein the Sub-Divisional Officer by its order dated 21.6.2005 (Annexure P/3) confirmed the appointment of the petitioner on the ground that the petitioner was more qualified.

5. Against the order dated 21.6.2005, passed by the Sub-Divisional Officer, Bilaigarh, the respondent No. 5 filed the Second Appeal, being Appeal No. 86/A-56/2004-05, before the Additional Collector, Baloda Bazar, wherein the Additional Collector vide order dated 6.2.2006 (Annexure P/4) rejected the appeal filed by the respondent No. 5 and confirmed the findings and order passed by the authorities below.

6. Being aggrieved and dissatisfied with the order dated 6.2.2006, passed by the Additional Collector, Baloda Bazar, the respondent No. 5 filed a Revision, being Revision Case No. RN/14/R/A-56/248/2006, before the Board of Revenue, Chhattisgarh, Bilaspur (Circuit Court, Raipur). The Board of Revenue, after having examining all the facts, vide order dated 30th November 2006 (Annexure P/1), held that the name of the respondent No. 5 was recommended by both the Gram Panchayats i.e. Gram Panchayat, Baloudi and Gram Panchayat, Tihlipali and the competent officer i.e. Naib-Tahsildar is to appoint Kotwar under the provisions of Rule 4 (1) of the Rules regarding appointment, punishment and removal of Kotwars and their duties

(hereinafter referred to as "the Rules") read with Section 230 of the M.P. Land Revenue Code, 1959.

7. In the present case, the name of the petitioner was recommended subsequently by only one Gram Panchayat i.e. Gram Panchayat, Baloudi and earlier, the name of the respondent No. 5 was recommended by both the Gram Panchayats i.e. Gram Panchayat, Baloudi and Gram Panchayat, Tihlipali for appointment on the post of Kotwar. The Naib-Tahsildar under the provisions of Rule 4 (1) of the Rules has to appoint the candidate on the post of Kotwar only on the basis of the resolution passed by the Gram Panchayat. It was held by the Board of Revenue that the method adopted by the competent officer and thereafter by other authorities appointing the petitioner as new Kotwar was not in accordance with the provisions of law.

8. Admittedly, the name of the petitioner was recommended by one Panchayat by subsequent resolution and the name of the respondent No. 5 was recommended by both the Panchayats earlier. The Board of Revenue accordingly allowed the revision and directed the Tahsildar , Bhatgaon to decide the case in accordance with law, on its own merit.

9. I have heard learned counsel appearing for the petitioner and perused the pleadings and documents appended thereto. The findings recorded by the Board of Revenue, is on the basis of the facts and in accordance with law. There is no infirmity, illegality or procedural error in the impugned order, passed by the Board of Revenue. Thus, no interference is warranted.

10. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear

ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

11. As a result and for the reasons stated hereinabove, the writ petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

B/-